

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Miriam Lynch	Team: Squad #11	CCRB Case #: 201801728	<input checked="" type="checkbox"/> Force	<input checked="" type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input checked="" type="checkbox"/> Injury
Incident Date(s) Sunday, 02/25/2018 4:54 PM	Location of Incident: The 161st Street--Yankee Stadium subway station; the Transit District 11 stationhouse	Precinct: 44	18 Mo. SOL 8/25/2019	EO SOL 8/25/2019	
Date/Time CV Reported Sun, 02/25/2018 9:50 PM	CV Reported At: IAB	How CV Reported: Phone	Date/Time Received at CCRB Fri, 03/02/2018 11:16 AM		

Complainant/Victim	Type	Home Address

Witness(es)	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. POM Alex Schmidt	06969	961258	TB DT11
2. POM Jimmy Quinones	19304	959100	TB DT11

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. SGT Arber Uruci	04242	919803	TB DT11

Officer(s)	Allegation	Investigator Recommendation
A.POM Alex Schmidt	Discourtesy: At the 161st Street--Yankee Stadium subway station in the Bronx, Police Officer Alex Schmidt spoke discourteously to § 87(2)(b) s.	
B.POM Alex Schmidt	Force: At the 161st Street--Yankee Stadium subway station in the Bronx, Police Officer Alex Schmidt used physical force against § 87(2)(b) s.	
C.POM Alex Schmidt	Force: At the Transit District 11 Stationhouse in the Bronx Police Officer Alex Schmidt used physical force against § 87(2)(b) s.	
D.POM Jimmy Quinones	Force: At the Transit District 11 Stationhouse in the Bronx, Police Officer Jimmy Quinones used physical force against § 87(2)(b) s.	

Case Summary

On February 25, 2018, Sergeant Evan Hall of the Transit Bureau Task Force reported this complaint on behalf of injured prisoner § 87(2)(b). The CCRB received this complaint on March 2, 2018. On March 3, 2018, § 87(2)(b) independently filed this complaint via mail. The CCRB received his letter on March 28, 2018.

On February 25, 2018, at approximately 5:00 p.m. § 87(2)(b) was selling Metrocard swipes at the 161st Street—Yankee Stadium station in the Bronx. He was stopped by PO Jimmy Quinones and PO Alex Schmidt of Transit District 11. PO Schmidt allegedly told him that he would “fucking” arrest him (**Allegation A- Discourtesy-** § 87(2)(g)). PO Schmidt and PO Quinones then tried to arrest § 87(2)(b) when § 87(2)(b) resisted their efforts to do so. PO Schmidt punched § 87(2)(b) once in the face (**Allegation B- Force-** § 87(2)(g)). Sgt. Arber Uruci, also of Transit District 11, also came to the scene. When PO § 87(2)(b) and PO Schmidt were allegedly taking § 87(2)(b) to the back holding cell, where arrestee § 87(2)(b) was present, where they allegedly struck his head against a door (**Allegation C- Force-** § 87(2)(g); **Allegation D- Force-** § 87(2)(g)).

This case was closed pending litigation on April 30, 2018, and was reopened on April 9, 2019 at the request of § 87(2)(b).

There was no video footage available for this incident. § 87(2)(b) was arrested for forgery.

Allegation A: Discourtesy- At the 161st Street--Yankee Stadium subway station in the Bronx, Police Officer Alex Schmidt spoke discourteously to § 87(2)(b)

It is undisputed that § 87(2)(b) was selling Metrocard farecard swipes at the part-time entrance of the 161st Street—Yankee Stadium subway station. It is undisputed that he was stopped by PO Schmidt and PO Quinones. It is undisputed that § 87(2)(b) was carrying an umbrella at the time, and an officer told him to put it down.

§ 87(2)(b) stated that PO Schmidt said that he would “fucking” arrest him, after the officers tried stopping him.

PO Schmidt stated that he may have told § 87(2)(b) that he would take him back to the precinct after seeing what he did, but he denied making this statement. PO Quinones did not recall any officer using profanity at any point during the incident. By all accounts, Sgt. Uruci did not arrive on the scene until after PO Schmidt and PO Quinones had already stopped § 87(2)(b).

Video obtained from the MTA did not show PO Schmidt’s and PO Quinones’s interaction with § 87(2)(b).

§ 87(2)(g)

Allegation B: Force- At the 161st Street--Yankee Stadium subway station in the Bronx, Police Officer Alex Schmidt used physical force against § 87(2)(b)

It is undisputed that as soon as PO Quinones and PO Schmidt began to place § 87(2)(b)s arms behind his back, § 87(2)(b) began to try to get them to stop. He did so by placing his arms towards the front of his body. It is undisputed that PO Schmidt told § 87(2)(b)

that he would punch him if he did not stop, and place his hands behind his back. It is undisputed that after he did so, § 87(2)(b) did not stop. After § 87(2)(b) did not stop, PO Schmidt punched § 87(2)(b) once in the left side of his face. After he punched § 87(2)(b) in the face, he, PO Quinones, and Sgt. Uruci placed § 87(2)(b) in handcuffs.

§ 87(2)(b) stated that as soon as the officers tried to place him under arrest, he tried to prevent them from doing so by placing his arms to the front of his body. He stated that PO Schmidt then told him that he would punch him, and then punched him.

Both PO Schmidt and PO Quinones corroborated that § 87(2)(b) immediately began to physically resist the officers' placing him into handcuffs. Sgt. Uruci also stated that § 87(2)(b) was resisting arrest when he arrived at the scene, which happened when the PO Schmidt and PO Quinones called for additional assistance. He did not see PO Schmidt punch § 87(2)(b) in the face.

Threat, Resistance, and Injury Report #§ 87(2)(b) lists that PO Schmidt used a hand strike against § 87(2)(b) and that § 87(2)(b) was "wrestling/grappling" against the officers (Board Review 01).

"Minimal" swelling above § 87(2)(b)'s right eye is listed as the only injury to § 87(2)(b)'s face in his medical records (Privileged Documents).

Patrol Guide Procedure 221-01 requires that officers use objective reasonable force in restraining suspects who physically resist arrest (Board Review 02). Patrol Guide Procedure 221-02 describes "active resistance" as "physically evasive" motions that prevent someone from being placed into custody (Board Review 03). It also recommends that officers warn a resisting subject that force will be used against him or her if the resistance. Patrol Guide Procedure 221-03 lists a hand strike as Level 1 force, the lowest level of reportable force listed in this procedure (Board Review 04).

§ 87(2)(g)

§ 87(2)(g)

Allegation C: At the 161st Street--Yankee Stadium subway station in the Bronx, Police Officer Jimmy Quinones used physical force against § 87(2)(b)

Allegation D: At the 161st Street--Yankee Stadium subway station in the Bronx, Police Officer Alex Schmidt used physical force against § 87(2)(b)

§ 87(2)(g)

§ 87(2)(b) did not mention that his head was struck against a door in his original complaint. During his in-person interview, he stated that PO Quinones and PO Schmidt struck his head against the door of the cell while he was handcuffed, as they were bringing him into the cell.

Neither PO Quinones nor PO Schmidt recalled bringing § 87(2)(b) into the cell. They both denied any incident in bringing him into the cell. They both denied that they struck his head into a door while bringing him into the cell.

§ 87(2)(b) an individual being held in the holding pen at the same time as § 87(2)(b) could not be reached by the investigation (Board Review 05).
§ 87(2)(b)'s medical records did not make any mention of his alleging that his head was struck against a door (Privileged Documents).

§ 87(2)(g)

Civilian and Officer CCRB Histories

- PO Schmidt has been a member of service for three years. This is the first CCRB complaint filed against him.
- PO Quinones has been a member of service for four years. This is the first CCRB complaint filed against him.
- § 87(2)(b)

- [REDACTED]
- [REDACTED]

Allegations Not Pleaded

Force- § 87(2)(b) medical records indicate that he told medical personnel that officers used a chokehold against him. He alleged a chokehold in neither his written March 3, 2018 written complaint, not in his April 4, 2019 in-person interview. § 87(2)(g)

Mediation, Civil and Criminal Histories

- This case was not suitable for mediation.
- On April 24, 2019, the New York City Office of the Comptroller confirmed that no Notice of Claim has been filed in regards to this case (Board Review 07).
- § 87(2)(b), § 87(2)(c)

§ 87(2)(b), § 87(2)(c)

Squad No.: _____

Investigator: _____
Signature Print Title & Name Date

Squad Leader: _____
Signature Print Title & Name Date

Reviewer: _____
Signature Print Title & Name Date